

NATIONAL TRANSPORTATION SAFETY BOARD HEARING

INTERVIEW OF: THOMAS A. FITMAN

Report of proceedings had at the National  
Transportation Safety Board Hearing held at the  
Residence Inn, 7542 Colosseum Drive, Rockford, Illinois,  
on the 21st day of June, A.D., 2009, commencing at the  
hour of 1:34 p.m.

APPEARANCES:

NATIONAL TRANSPORTATION SAFETY BOARD, by  
MR. RUSSELL F. GOBER  
MR. STEPHEN M. JENNER

UNITED TRANSPORTATION UNION, by  
MR. JERRY L. GIBSON

BROTHERHOOD OF LOCOMOTIVE ENGINEERS, by  
MR. CARL W. FIELDS

UNITED STATES DEPARTMENT OF TRANSPORTATION, by  
MR. KENNETH B. JAMIN

CANADIAN NATIONAL RAILWAY, by  
MR. KEVIN BROCKMAN

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4 THOMAS A. FITMAN

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1 MR. GOBER: Okay, as I said, my name is Russell  
2 Gober, I'm with the National Transportation Safety  
3 Board. We're here to develop the facts and conditions  
4 and circumstances related to the accident that you were  
5 involved in at Rockford, Illinois on Train No. U 70691  
6 of the 18th. The accident occurred about what time?

7 THE WITNESS: 8- -- 2040.

8 MR. GOBER: 8:40 p.m. on Friday June 19th, 19- --  
9 2009, excuse me.

10 WHEREUPON:

11 THOMAS A. FITMAN,  
12 called as a witness herein was examined and testified as  
13 follows:

14 EXAMINATION

15 BY MR. GOBER:

16 Q. If you would, tell us your name and what your  
17 occupation is.

18 A. Thomas A. Fitman, conductor, CN Railway.

19 Q. Okay. Thomas, how long have you worked as a  
20 conductor?

21 A. Since -- work as a conductor, January of '06.

22 With the CN August 18th, '09 -- '08. '08.

23 Q. '08. Do you have any other railroading

24 experience?

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1 A. Nope.

2 Q. Okay. So from the time you started to work

3 until this accident occurred, how long have you worked

4 with CN?

5 A. CN, August 18th was my hire date.

6 Q. 2008?

7 A. Yes, correct.

8 Q. Okay. Did you hire on as a conductor?

9 A. Yes.

10 Q. Okay. Had you taken a CN book of operating

11 rules?

12 A. Yes, that was that first week in Cedar Falls

13 from August 18th, 2008 to the end of the week, that was

14 Monday through Friday.

15 Q. Okay. When do you have to re-qualify?

16 A. Three years.

17 Q. Every three years?

18 A. Yes.

19 Q. Okay. Is there a score that you have to  
20 attain in order to pass?

21 A. I think he said it was a 90. I had a 92 or a  
22 93.

23 Q. Okay. How long have you been working on this  
24 run from Dubuque to Chicago?

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1 A. East? I went west probably, all the way  
2 probably six or seven times. East, probably about four  
3 times.

4 Q. Okay. So that I can understand, if you go  
5 east, how do you get back west or vice versa?

6 A. Well, you usually take a train west and then  
7 if they have you stay overnight in a hotel in Dubuque  
8 and then most of the time though I get a cab back to  
9 Hawthorne to do something else. They rarely have a  
10 train because it isn't that busy.

11 Q. Okay. How many --

12 A. So this time they did have a train.

13 Q. How many trains per day do they usually run  
14 over this line?

15 A. Well, you've got a three -- going west you've  
16 got a -- every day there's the 337 -- 337 going west and  
17 a 338 going east and then you have extras. I don't  
18 watch the board so -- I'm on the extra board, so. Then  
19 you have ethanol trains, that's picking up a little bit,  
20 that's a 703 or a 704 or a 706. How many trains exactly  
21 a day? I don't know.

22 Q. Was the train that you're on -- that you were  
23 on, is that considered an ethanol train?

24 A. It was. It was totally an ethanol train and I

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1 had a pickup at Freeport, I just took freight cars that  
2 were going to be dropped off at Hawthorne and I presumed  
3 the rest of it probably went to -- we were going to hand  
4 that off to the NS.

5 Q. Okay. Whenever -- You went on duty at  
6 Dubuque, Iowa?

7 A. Right, at 1400.

8 Q. Okay. And you had nothing but ethanol on your  
9 train?

10 A. Well, there was -- usually you have buffer  
11 cars, the first car is a grain car and then you have one  
12 in the middle and one on the end so it was 73 ethanol  
13 and three buffers so that I had 76 cars when I got on  
14 that train.

15 Q. Okay. Whenever you were on your train  
16 operating 1400 which is 2:00 o'clock.

17 A. Uh-hum.

18 Q. Did you have any unusual delays between  
19 Dubuque and that accident?

20 A. Yeah, we -- well, not unusual. We stopped at  
21 East Lena so that the gentleman you just interviewed  
22 could go into siding and go west of us, the G 870 I  
23 believe it was. We got off the train, watched both  
24 sides of their train as they rolled by. I gave them a

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1 thumbs up. We got on our tr- -- as soon as we got on

2 the train, we got the signal. Went to Freeport. I  
3 notified the dispatcher to make sure he knew we had --  
4 well, I notified him before that to make sure he knew we  
5 had a pickup at Freeport.

6 The trainmaster that was at Dubuque, Blair  
7 Templeton, said he was driving ahead to Freeport to  
8 assist me with the air test to expedite the move so when  
9 I got there, he was there. He gave me a ride, driving  
10 me back and forth, so it wouldn't take as long.

11 Q. Okay.

12 A. Did the air test, 38 cars, filled out the  
13 sheet, Class 1. Then we had to -- we told him we were  
14 ready to go, I got my track warrant, CTC West Seward,  
15 Milepost 16, and we started to go.

16 Q. Okay. Freeport Milepost 16?

17 A. Well, we left at Freeport but that's already  
18 in CTC, I don't need a track authority until I'm ABS and  
19 that starts at West Seward. Freeport's like 115 or 117  
20 east juncture.

21 Q. Okay. You had 38 cars you picked up in  
22 Freeport?

23 A. Right.

24 Q. And how many did you have when you --



1 A. Seventy-six for a total of 114.

2 Q. Okay. Whenever you left Dubuque, did you  
3 have -- did you make the air test or did the car  
4 department make the air test for you?

5 A. The cars I had, the 76 cars, were done by  
6 Hackbarth in Tara, Iowa. That was on a track. So those  
7 cars were already tested.

8 Q. Okay. Did your train originate at Dubuque or  
9 where did it originate?

10 A. I'm guessing it originated in Tara because I  
11 just -- I just --

12 Q. And how do you spell Tara?

13 A. T A R A.

14 Q. And that was all ethanol with the three  
15 buffers?

16 A. Yeah, 76 with those three.

17 Q. Tara, Iowa?

18 A. Yeah.

19 Q. And is that at a plant or a rail yard?

20 A. That's -- I don't -- I don't know.

21 Q. Okay.

22 A. I've never been there. I've never been west  
23 of Dubuque.

24 Q. Okay. What milepost is Dubuque, do you know?

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1 A. 182.

2 Q. Okay. Just kind of give me your idea of the  
3 train operations after you left Freeport until the  
4 accident happened, just tell me the story.

5 A. Well, it was pouring while I was doing my  
6 pickup at Freeport and then it lightened up a little  
7 bit. Then we went through Rockford, Rockford is roughly  
8 like 85 to 88 and when we were going under the trestle  
9 bridge at the diamond there where the IR is at, we  
10 noticed there was some water up over one of the rails  
11 under the trestle and a few miles ahead we seen the  
12 water just about a half mile east of Milepost 81.

13 So then I immediately got on and let the  
14 dispatcher know because there was water running on the  
15 sides of the tracks. It was going to, you know,

16 wherever the drain's at. And we -- it wasn't over the  
17 rail there. It might have been earlier, but it wasn't  
18 when we went over it and then I wasn't off the phone a  
19 minute with the dispatcher and then the train went in  
20 emergency so originally we just thought that maybe it  
21 popped a hose because there was some tree branches  
22 laying around from the storm. Nothing big. So maybe  
23 something was -- like if something gets stuck in the  
24 middle of the track, the hoses sometimes hang a little

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1 lower and it will clip the hose and then it will come  
2 apart so I started walking back. I started walking back  
3 on the engineer's side. When I got about ten cars back,  
4 there really wasn't any room to walk so I crossed  
5 through the train.

6 Q. What kept you from having room?

7 A. The landscape.

8 Q. Water or?

9 A. No, just the --

10 Q. Trees?

11 A. -- trees, obstacles.

12 Q. Okay.

13 A. So then I crossed through the train and I

14 started walking on my side and I got just near the 36th,

15 37th car from the pickup I made at Freeport and then it

16 kind of the track curves off to the right, there was an

17 overpass there, I don't know which street that was or

18 highway, and it was just getting dark and I noticed the

19 reflection on the black tankers it was orange but I said

20 well, that doesn't look like the sun because it's

21 actually moving and then I looked and I seen there was

22 white smoke in the air so I told the engineer, he called

23 the dispatcher right away, dispatcher said he was going

24 to contact the proper authorities.

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1 I didn't want to -- you know, I was only about

2 20 cars away but, like I said, it was going around a

3 curve, I couldn't see what actually was on fire but I'd

4 seen the reflection of it so I just went back to the

5 head end and then the fire department came.

6 Q. Okay. To back up just a little bit. Prior to  
7 the accident from Freeport to the point of the  
8 accident --

9 A. Uh-hum.

10 Q. -- and before you called, had the dispatcher  
11 given you any indication that there was any water  
12 problems?

13 A. No.

14 Q. You never heard from him?

15 A. No.

16 Q. You were operating in CTC territory?

17 A. No, I cleared the -- when we get east of West  
18 Seward, I clear the track authority.

19 Q. Okay. So --

20 A. No. Well, no, I was, I was still on it.

21 Yeah, I was in the track authority, I was within that,  
22 right, right.

23 Q. Okay.

24 A. Because it goes from Milepost 16 to West

1 Seward.

2 Q. Would you have a track warrant to check a box  
3 to indicate that there was a water problem if --

4 A. He would give me a mandatory directive.

5 Q. Okay. And that mandatory directive would say  
6 what if there was water?

7 A. Whatever he told me, I would write it down and  
8 repeat it to him.

9 Q. Okay. Would he tell you that there's a Rule X  
10 or anything like that?

11 A. I've never -- I've never run across that so I  
12 don't know exactly what rule that would be but, yeah.

13 Q. Okay. So if there was water, he would give  
14 you a track authority to slow down?

15 A. I sure hope so.

16 Q. Okay. If you saw water like you did at  
17 Milepost 81, you would then call him if --

18 A. That's what I did. That's what I did. It's  
19 on the tapes.

20 Q. Okay. And -- Okay. How high was the water  
21 whenever you called him?

22 A. It wasn't above the rails. It was --

23 Q. What was it above?

24 A. It was starting to crest right at the top of

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1 the ballast.

2 Q. Okay.

3 A. Just for maybe a 20-foot length. I don't know  
4 why it was coming up there, it must have been a lower  
5 spot.

6 Q. Was it raining at that time?

7 A. Just drizzling.

8 Q. Could you tell whether it had been raining  
9 hard there before you arrived earlier?

10 A. I assume that's why all the water was there  
11 and the tree branches were all over the place. I mean  
12 because we were in Dubuque when the storm hit and I was  
13 in a hotel room and it was bad and it moved that way.  
14 It was sunny when we got on the train in Dubuque.

15 Q. Okay.

16 A. By the time we got to Freeport it was pouring.

17 Q. Okay. So the first indication about water on  
18 your train was when you called the train dispatcher at

19 Milepost 81 and let him know that there was water next  
20 to the rail?

21 A. Yeah.

22 Q. And then within about a minute your train went  
23 into emergency?

24 A. Yeah.

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1 Q. So he never called you back before then?

2 A. Well, yeah, he acknowledged, he repeated what  
3 we told him and he said okay. So I assume he was going  
4 to contact the people to check it out after we went by.

5 Q. Okay. How long did you say you'd been working  
6 as conductor on this line?

7 A. August 18th. Well, I really didn't go west  
8 until November.

9 Q. November?

10 A. November of '08.

11 Q. Okay. Have you experienced any problems with  
12 water or track surface, or?

13 A. Well, there was -- well, I'm going to say



14 probably the end of winter this year there was a washout  
15 right around the DuPage lead and -- but we were notified  
16 ahead of time. We had a 12,000-foot train, I was with  
17 Bill Campbell was my engineer and it had rained heavy  
18 the day before and one of the track guys was sitting  
19 right there, we had a slow order at five miles an hour  
20 to go over there and he watched as our train went over  
21 and he told us when we were in the clear. It's the only  
22 time I've actually seen a washout and it was just -- it  
23 was one side of the track was -- most of the rocks were  
24 gone and it was starting to eat under the track.

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15 1 Q. Okay. Whenever you approached Mulford where  
2 the accident occurred, were you familiar with that  
3 territory? Did you know where you were?  
4 A. Well, I'm always looking for the mileposts in  
5 case the dispatcher calls me and he wants to know where  
6 we're at. The gates were down, nobody was following the  
7 track. They asked me -- the fire department asked me  
8 did you see any cars.  
9 Q. Were you sitting on the --  
10 A. I'm on the -- I'm on the left side.

11 Q. Left side?

12 A. Right. I don't know what side --

13 Q. Did you see --

14 A. -- the cars were.

15 Q. -- any traffic stopped?

16 A. I don't remember if there was any. All is I'm

17 looking for is there's nobody on those tracks and those

18 gates going down.

19 Q. Did you by chance look at the track as you

20 were making --

21 A. I'm sure I do. I mean, you're constantly

22 looking, you're trying -- you --

23 Q. Okay.

24 A. You want to make sure you're not -- it's --

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1 Q. There's a little, a little trestle, a little

2 short 20-foot trestle or so right there before you get

3 to the crossing.

4 A. Uh-hum.

5 Q. Did you by any chance observe the water at

6 that trestle?

7 A. Well, it couldn't have been over the tracks  
8 because otherwise I would have reported that too.

9 Q. Okay. Okay. So --

10 A. You know, after the storm, you're always  
11 looking for...

12 Q. Right. So you were just highly alert based on  
13 the fact that there had been --

14 A. Always am. I'm highly alert doesn't matter  
15 what. I'm watching ahead. You know, people are beeping  
16 their horns and waving, I don't care about them, I've  
17 got to watch the tracks.

18 Q. Uh-hum. Whenever you approached the crossing  
19 there at South Mulford, you were operating in automatic  
20 block territory? Do you have signals?

21 A. Yeah. We had a clear before that.

22 Q. Okay. You had a clear in that --

23 A. Yeah.

24 Q. In that block?

1     A. And it's 50 miles an hour in there, we were  
2     doing about 30 when it went in emergency.

3     Q. Okay. Had you had any signal problems at all  
4     in route?

5     A. No.

6     Q. Okay. So there was nothing to give you an  
7     alert there could be --

8     A. No. No.

9     Q. -- a washout or any kind of a problem?

10    A. Right, because that would have -- that would  
11    have broke the tracks and then we would have...

12    Q. Okay. You've been operating over this line  
13    for several months.

14    A. Right.

15    Q. Did you see any difference in the surface, the  
16    ride of the train as you were making the trip over it  
17    before the accident?

18    A. No. I know they'd been continuously doing  
19    work. Every time I'm on it they have planned work  
20    putting new ballasts in, new ties.

21    Q. Had they done any work on that bridge there  
22    that you're aware of?

23    A. No, not -- no, I didn't have any planned work

24 through that area.

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1 Q. Okay. On the day of the accident did you have  
2 any slow orders in that area?

3 A. No, the first slow order was going to be like  
4 Milepost 25. We had one that went from 101 I think to  
5 91 and then we didn't have to worry about anything until  
6 25.

7 Q. Okay. You had a --

8 A. You know, that's general but I knew after we  
9 got through the one -- we got through the slow order  
10 before we got into Rockford.

11 Q. Okay. You had a 25-mile per hour slow order  
12 or was it 25 or 20?

13 A. I can't -- I had like three of them in a row.

14 Q. Okay. The last one you had was how far from  
15 Mulford?

16 A. Probably about ten miles.

17 Q. Okay. Okay. Had you and the engineer been in  
18 conversation about --

19 A. Always are. I remind him, he reminds me.  
20 Q. You call signals whenever you --  
21 A. Yeah.  
22 Q. Do you have a signal log?  
23 A. No. We're not required to do that here. I  
24 did that at CSX, we had to call it out over the radio,

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19

1 but we call it to each other.  
2 Q. You just have rule -- used to be Rule 34 to  
3 call signals but I don't know what it is in your book,  
4 but whenever you see a clear, you just say clear?  
5 A. It doesn't matter what it is, I tell him.  
6 Q. Okay. So if it's a red light, what do you  
7 call it?  
8 A. Well, I make sure he knows so I don't have to  
9 pull that handle. It's just a red board.  
10 Q. Okay.  
11 A. Unless it's an intermediate, then it's a  
12 restricted proceed.  
13 Q. Do you have approach signals?

14 A. Pardon?  
15 Q. Do you have approach?  
16 A. Yes.  
17 Q. Okay. What color would that be?  
18 A. Yellow on top.  
19 Q. Okay. Yellow over red?  
20 A. Yeah.  
21 Q. Okay.  
22 A. Unless it's a pod.  
23 Q. What -- just thinking back over it before the  
24 accident occurred, is there anything that you would like

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1 to tell us?  
2 A. It was a complete surprise, we had -- I had  
3 no -- Ken too. We had no idea what -- that's why I  
4 figured it was a hose.  
5 Q. Okay. As -- you went up an ascending grade  
6 and then you were --  
7 A. Correct.  
8 Q. -- actually going down --

9 A. Correct.

10 Q. -- whenever the accident occurred?

11 A. Right.

12 Q. Did you have any slack adjustments in the

13 train, any --

14 A. No.

15 Q. -- jerking, pulling?

16 A. I didn't feel anything.

17 Q. Nothing? You didn't feel it?

18 A. I didn't feel anything.

19 Q. Okay.

20 A. I know the engineer -- you know, they tell me

21 the engineer can feel it in his seat and, you know, like

22 something -- like when I first started training and I'm

23 like well I'm on this side in the seat and I don't feel

24 anything.

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1 Q. Yeah, I understand. The first car to derail

2 was how far back in your train?

3 A. I found out later it was the 58th car. I



4 was -- at my first estimate I thought it was like the  
5 52nd car because from where I was standing, I just --  
6 and, like I said, it was getting dark, there's no light  
7 out there. The only light I had was the fire so I tried  
8 counting how many tankers there was so my first  
9 guesstimate was like the 52nd car so I was six off.

10 Q. Okay. So you picked up --

11 A. Thirty-eight cars.

12 Q. -- thirty-eight cars. So how many -- how many  
13 ethanol were you holding onto?

14 A. We had them all.

15 Q. No.

16 A. Oh, you mean when it came apart?

17 Q. After the derailment.

18 A. Well, when I went back there with the guy from  
19 the fire department, I got a better count that there was  
20 probably about 19.

21 Q. Okay. So you had the pickup that you made  
22 plus 19 --

23 A. Right. Right.

24 Q. -- cars on the head end? Okay. Did you have

1 an accurate consist that showed --

2 A. Yeah.

3 Q. -- what you had in the train?

4 A. Yeah.

5 Q. Did you -- when you had your original consist  
6 out of Dubuque and then you picked up 38 cars --

7 A. Right, and then I made an air test on a sheet  
8 the -- the sheet that the trainmaster gave me.

9 Q. Okay. So he gave you a consist to show you --

10 A. There was no dangerous on what I picked up.

11 Q. Okay.

12 A. It was all the car numbers, where they were  
13 going. Then I -- I took it, originally took it off the  
14 train because the fire department said they wanted to  
15 make a copy of it in Cherry Valley.

16 Q. Okay. On your ethanol cars what kind of --

17 A. Placard Three flammable.

18 Q. And did you have that on your consist as well?

19 A. Yeah, it was a 1987 a 128 in my hazmat book.

20 Q. Okay. Okay. Did you assist the fire  
21 department in any way to identify what kind of material

22 you had in the train?

23 A. No, I had my stuff already but apparently CN

24 had already told them what it was so they knew what to

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1 do. Nobody asked me. I had my book with me.

2 Q. Okay. And whenever you walked back you saw

3 the glare and all. What did you do after you saw the

4 glare?

5 A. As soon as I saw the glare, I called the

6 engineer because the dispatcher can't hear me on my

7 hand-held radio. As soon as I did that, he called the

8 dispatcher. Dispatcher acknowledged it and he said he'd

9 contact the proper authorities.

10 Q. Okay. After that, what did you do?

11 A. I walked back to the head end.

12 Q. Okay. And then after that what did you do?

13 A. The fire department, they sent the guy up, we

14 were about 15 cars from I believe it's Perryville Road,

15 he pulled up alongside us, I asked him what he needed,

16 he said I need you guys to come with me to the command

17 center and that was on Mulford a little bit north and he  
18 said -- I said do you need my paperwork, he said yeah so  
19 I left my track authority up there and my TGBO and I  
20 went to command center. I wasn't in there a half hour  
21 and then he said now you've got to come back with me  
22 because they want to make a chop on the train. Pulled  
23 it, load whatever cars we can east. So me and the  
24 engineer went back to the head end, I knocked off the

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1 brakes, he knocked off his brakes, started up the engine  
2 and we walked back until he thought it wasn't safe  
3 anymore because the fumes were coming our way.

4 Q. You and the engineer?

5 A. No, me and the guy from the fire department.

6 Q. Okay.

7 A. And we got -- we got back to the 42nd car, he  
8 said we're not going any further than this and I said  
9 okay, and I got my in between protection, tied the  
10 brakes on the cars I left there, made my cut and we  
11 pulled it ahead just so he wouldn't be -- the gates  
12 wouldn't be coming down on Perryville and then I re-tied

13 it down, got on the head end and about then we were  
14 almost dead so Mr. Brockman took us to get our tests.

15 Q. Okay. Do you use alcohol or drugs?

16 A. Not drugs, alcohol I drink once in awhile.

17 Q. Okay. Were you clean on the day of the  
18 accident?

19 A. Oh, yeah. Always am.

20 Q. Okay. Is there anything that you think could  
21 have been done better than what was done after the  
22 accident that you --

23 A. What do you mean?

24 Q. -- experienced? Well, do you know of anything

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1 else you could have done to make the area safer?

2 A. It was -- it was -- After the accident or  
3 before it happened like?

4 Q. Well, tell me about before.

5 A. Well before it happened they have the gates  
6 are good there, nobody is going to run around them, you  
7 know.

8 Q. Okay. So it's basically a four-lane road  
9 that --

10 A. Right.

11 Q. Where the accident occurred. And the gates  
12 are across both lanes?

13 A. I think they are, I'm not positive.

14 Q. Okay. So nobody tried to run in front?

15 A. Oh, no. And I do see that on a regular basis  
16 especially in Rockford but not right there.

17 Q. Okay. And I know you learned later that there  
18 was some people stopped at the crossing.

19 A. Right.

20 Q. Do you know whether there were cars stopped on  
21 both sides of the track or not?

22 A. I don't know. I did not pay attention to  
23 that, I'm looking on the rail.

24 Q. Okay. When you went with assistant

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1 superintendent to have your tests and then after that  
2 you were released to go home or what?

3 A. He drove us back to Hawthorne, I tied up and  
4 went home.

5 Q. About what time did you get off?

6 A. I tied up at 5:45.

7 Q. A.m.?

8 A. Yes.

9 MR. JAMIN: 4:45? What time did you say?

10 THE WITNESS: 5:45.

11 BY MR. GOBER:

12 Q. Okay. Is there anything else you'd like to

13 tell us about this?

14 A. I feel terrible for the woman that burned to

15 death and whoever else got hurt.

16 Q. We understand.

17 A. But, like I said, everything was going fine.

18 I just thought it was a hose. I was hoping it wasn't a

19 knuckle but I didn't think anything like that happened.

20 Q. Okay. And whenever you made the cut, you had

21 air on the train?

22 A. Yeah, he started the engines back up and by

23 the time I got back there, it was pumping.

24 Q. Okay. Did you turn the angle cock before?

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1 A. No, I told him you let me know when you get

2 the air and then I get in between to close the angle

3 cock so we can cut away.

4 Q. Okay. So did you pump up the brakes before

5 you made the cut?

6 A. Oh, yeah.

7 Q. Okay.

8 A. And I tied down the part of the train we were

9 leaving there and I left the angle cock.

10 Q. Did you check all the train to make sure your

11 cars were on the rail?

12 A. Oh, yes.

13 Q. Did you --

14 A. Yes, two times. First time I walked back and

15 the second time I walked back.

16 Q. Did you have any -- did you ride the rear of

17 the cut whenever you pulled forward?

18 A. Yeah.

19 Q. Did you have any indication that anything

20 might have been derailed in those last two cars that you

21 were holding on to?

22 A. No. No, it's a fine smooth ride.

23 Q. Okay. Did you see any -- How many cars were

24 left between the -- you got any idea how many cars?



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1 A. I'm guessing about it looked, it looked like  
2 about 16 cars and I did see the far west car, the trucks  
3 on the west end were gone and it was laying on the rail  
4 but everything ahead of that was on the rail but we  
5 didn't walk back that far so I'm guessing.

6 Q. Okay. But everything you pulled ahead was on  
7 the rail?

8 A. Oh, yeah, I could have -- I could have grabbed  
9 more cars but he didn't want to go back any further  
10 because of the fumes.

11 Q. Okay. And in the end, how many cars were you  
12 holding onto?

13 A. Forty-two.

14 Q. Forty-two cars.

15 A. Thirty-eight from my train, the buffer car and  
16 three ethanol.

17 Q. Okay. Okay. Three ethanol?

18 A. Yeah.

19 MR. GOBER: Okay. Mr. Jamin with FRA, do you have  
20 any questions?

21 MR. JAMIN: Yes, sir, briefly.

22 EXAMINATION

23 BY MR. JAMIN:

24 Q. You mentioned you formally worked for the CSX?

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1 A. Yeah.

2 Q. And in what capacity was that?

3 A. Conductor.

4 Q. And what time period was that?

5 A. My hire date was January 22nd, '06, I marked

6 up officially as a conductor May 18th of '06 and I

7 stayed there until I left a week before August 18th of

8 last year to come to CN.

9 Q. So January '06 to August of --

10 A. Yeah, August of '08.

11 Q. -- '08?

12 A. Yeah.

13 Q. And you left to come over to the CN?

14 A. CN.

15 Q. Okay. And your present home terminal is?

16 A. Hawthorne.

17 Q. I'm sorry, Hawthorne is the home terminal?

18 A. Uh-hum.

19 Q. Home terminal is Hawthorne Yard. Can we go  
20 back and talk, please, a little bit about the Rockford  
21 diamond there over the ICE and the IR?

22 A. Uh-hum.

23 Q. And you described some water there?

24 A. Under the trestle.

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1 Q. Under the trestle. Okay.

2 A. I said it wasn't a lot. I mean, it was over  
3 the -- my side of the rail for maybe five feet.

4 Q. It was how high up on the rail you said, to  
5 the base or the --

6 A. It was right near the top of the rail on the  
7 left side, nothing on the right side.

8 Q. It was near the top of the rail?

9 A. Right, but you could tell it was receding.

10 Q. For about five feet, huh?

11 A. Yeah.

12 Q. Okay. And then you said there was water about  
13 a half mile east of Milepost 81?

14 A. Right.

15 Q. And that was how high, or?

16 A. That wasn't, that wasn't -- it was up even

17 with the ballast but it wasn't up on the rail.

18 Q. Even with the ballast, all right. And then

19 you said you had just got on the radio?

20 A. Yeah, as soon as we went over that, we

21 started, you know, hey, you know, and then he rang up

22 the dispatcher and I talked to him.

23 Q. And you talked to the train dispatcher and

24 what was the dispatcher's response to that?

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1 A. That he acknowledged it.

2 Q. Did he give you any instruction or suggestions

3 or advice or anything at all?

4 A. Uh-uh.

5 Q. Just acknowledged?

6 A. He acknowledged it and then like I said within

7 a minute we went in emergency so maybe he was going to

8 do something about it --

9 Q. Okay.

10 A. -- and get back to us.

11 Q. And did you say you also reported the water  
12 there at the diamond?

13 A. I reported both of those at the same time.

14 Q. At the same time. Oh, okay. You did not  
15 report it initially but you combined them both when you  
16 got to the second one?

17 A. Right.

18 Q. Okay. And maybe nobody asked you about having  
19 instructions on Rule X or Rule W. Did you have that out  
20 there at the time?

21 A. Uh-uh.

22 Q. You don't recall?

23 A. No.

24 Q. You had nothing on the extreme weather

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1 warning --

2 A. No.

3 Q. -- issued to you --

4 A. No.

5 Q. -- prior to the thing?

6 A. No.

7 Q. Okay. And --

8 A. I know what you're talking about though, but

9 no, we didn't.

10 Q. You're familiar with it?

11 A. Right, we didn't have any.

12 Q. Okay. And if you'd gotten that --

13 A. It wasn't on the TGBOs and it wasn't a

14 manda- -- he didn't give us mandatory directive, so.

15 Q. Okay. Okay. And --

16 A. If I got it, I would slow down to what the

17 speed was or whatever he told me. I'd go in the rule

18 book.

19 Q. If in absence of a mandatory directive or a

20 Rule X or TGBO, just on your own if you and your

21 engineer had encountered those conditions, what would

22 have been your response?

23 A. Take it easy.

24 Q. You would have instruct- -- you're in

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1 charge -- who's in charge of the train on CN?

2 A. Well, we both are.

3 Q. Well, there's usually --

4 A. I mean I --

5 Q. -- one person that's -- well, I understand but

6 usually one person is the responsible party on the

7 train, is it the conductor or engineer?

8 A. I would say the conductor.

9 Q. Is it the conductor by rule?

10 A. Uh-hum.

11 Q. Okay. So you're in charge of the engineer and

12 if you encountered those conditions, you would have said

13 what to your engineer just typically? After you'd seen

14 enough to have a concern about it, what would your

15 response to the engineer have been?

16 A. Do you see what I see.

17 Q. Yeah.

18 A. Like I said, we were going 18 miles -- right

19 around 18 miles an hour at that time.

20 Q. I understand. No, I'm just saying in general

21 and not mean this particular moment, I mean just in

22 general. I'm just trying to get a feel for what --

23 A. Well, we were -- we're -- you know, that's why

24 we said why don't we see something if it gets worse

1 ahead.

2 Q. What would you -- what would you have done if  
3 you -- if you had continued, what would your response  
4 have been to the operation of the train, would you have  
5 continued at regular speed --

6 A. Restricted speed.

7 Q. At restrict- -- on your own without further  
8 direction from the dispatcher I mean, just on your own.

9 A. Well until we were over that.

10 Q. That's what I -- that's what I mean. In those  
11 areas you would have --

12 A. Right.

13 Q. You would have instructed your engineer if --

14 A. Right. I probably wouldn't even have to do it  
15 with him, he knows.

16 Q. Oh, I understand, I'm just saying in general.  
17 I don't mean this particular engineer, this particular  
18 trip, I'm just trying to get a feel for the general  
19 culture of things, that's all I'm looking for.

20 Would you have -- if you had done so, in your  
21 mind how do you feel that such a delay would be treated



22 by the carrier?

23 A. Doesn't matter. Safety is first.

24 Q. Oh, I understand, but I'm just saying how do

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1 you think it would be --

2 A. They would say okay, why not.

3 Q. They'd be okay with that?

4 A. They wouldn't want it to happen anymore than  
5 what happened anymore than I did.

6 Q. Okay. Okay. Let me see if I have anything  
7 else real quickly here.

8 A. I mean, they might ask me again when I got  
9 into the terminal --

10 Q. Yeah.

11 A. -- what happened --

12 Q. Yeah.

13 A. -- to slow the train. I mean, because I'm  
14 already talking to the dispatcher while we're running.

15 Q. Certainly.

16 A. When I get to my home terminal where we're  
17 going to interchange or whatever, then I might --

18 Q. Sure.

19 A. -- talk to an official.

20 Q. I mean after the fact, that's what I meant.

21 I'm sorry. After the fact. Let's say a day later, a

22 week later.

23 A. No, it would probably be that day.

24 Q. Well, I mean, if you'd given that explanation,

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1 how would you feel it would have been received?

2 A. I hope it would have been received the same

3 way, you know.

4 Q. Okay.

5 A. Like the dispatcher acknowledged it and then

6 proceed with caution.

7 Q. Okay. You don't think anyone would take

8 exception to you independently exercising caution

9 over --

10 A. Not with -- not with that, no. No.

11 Q. Okay. Okay. You said you went back and you

12 did wind up cutting the head 42 cars away from the --

13 A. Right. But only four of those cars were

14 actually the --

15 Q. The rear 42?  
16 A. No, the head 42.  
17 Q. But the rear four -- the rear --  
18 A. No, there was 114 cars.  
19 Q. Okay.  
20 A. And I took the head 42.  
21 Q. Right.  
22 A. Thirty-eight car pickup plus four from the  
23 ethanol train.  
24 Q. That's what I meant, it would have been your

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1 west four cars were still ethanol of the ones you hung  
2 on to?  
3 A. Well, three because I had the buffer.  
4 Q. Thirty-eight --  
5 A. Plus one, 39.  
6 Q. Thirty-nine and three equals 42. I  
7 understand. Okay. Very good.  
8 MR. JAMIN: No. Thank you, sir, I don't believe I  
9 have any further questions. I appreciate it.  
10 MR. GOBER: Okay. I've got a couple more and then

11 I'll hand you off to Steve.

12 FURTHER EXAMINATION

13 BY MR. GOBER:

14 Q. You already told us this but how fast were you  
15 going when you went into emergency?

16 A. Thirty.

17 Q. Okay. And what was your speed limit at that  
18 point?

19 A. Fifty.

20 Q. Why were you just doing 30?

21 A. We were coming downhill.

22 Q. Okay. Had you --

23 A. We were going to start picking up speed.

24 Q. Okay. So --

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1 A. But we weren't at that point yet so there was  
2 no need for him to apply any brakes.

3 Q. Okay. Based on what we had observed earlier,  
4 you guys were running about 19 miles an hour going up  
5 the hill?

6 A. Uh-hum. Eighteen, 19, right.

7 Q. And you were in number eight, so.

8 A. He was in six when we were going down.

9 Q. And he'd reduced to six and you were running  
10 about 30 when it went into emergency?

11 A. Right, I'd seen the 30, I couldn't see what  
12 notch it was in because there's a panel there but that's  
13 what he told me he was in six. And I know he didn't put  
14 any air on there, that I would have felt because we  
15 would have -- the head cars would have slammed into us.

16 Q. Okay. What kind of air pressure do you all  
17 run on the train, do you have --

18 A. Well when I air tested those cars at Freeport  
19 I had 91.

20 Q. Okay. So you run 90 pounds.

21 A. You've got to have at least 75 before you can  
22 do the set.

23 MR. GOBER: Okay. Mr. Jenner, do you have any  
24 questions?

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1 MR. JENNER: Yes. I'm going to go back and jump  
2 around a little and then I'm going to change pace if I  
3 can ask you some questions about your training and

4 experience and then health and things like that.

5 THE WITNESS: Uh-hum.

6 EXAMINATION

7 BY MR. JENNER:

8 Q. Before you were with the CSX --

9 A. Before CSX?

10 Q. Before CSX --

11 A. Okay.

12 Q. -- in 2006, were you also in the railroad

13 industry?

14 A. No. Well, I worked at a factory for 26 years

15 and we used to get a six-car tanker switch every day of

16 edible animal fat so that's the only -- I mean, I knew

17 what a handbrake was and air on the car.

18 Q. Right. Okay. How was the -- As you're

19 crossing the trestle --

20 A. You know what, I didn't even notice it so, I

21 mean, there was nothing unusual for me to notice

22 nothing, no up and down. You know, I didn't notice

23 any -- that's why it was a -- that it was a surprise --

24 Q. Right.

1     A. -- why the train came apart, everything was  
2 smooth.

3     Q. Right. How was the visibility --

4     A. Fine.

5     Q. -- as to darkness?

6     A. No, it was -- the sun like a sun shower.

7 Because we -- at Freeport it was dark and it was pouring  
8 and as usual as soon as I'm done with the work and get  
9 back on the engine that's when the rain lightens up.

10 So, you know, I took off my rain gear before we left, I  
11 got my track authority and then we left.

12     Q. So at this trestle and your prior one you're  
13 observing water levels to make you concerned enough to  
14 call the --

15     A. Well not -- this trestle I didn't notice any  
16 water, the prior one at Rockford at the diamond I  
17 noticed a little bit of water. This trestle I don't  
18 even have any recollection of it. I mean, I'm sure I've  
19 seen it but nothing that would -- I would think  
20 something was going to go wrong.

21     Q. All right. I see. At what level of  
22 concern -- of water do you make the call to the  
23 dispatcher or do you decide --

24 A. Well, if it's under -- if it's under water,

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1 then -- totally under water, you've got to -- we've got  
2 to stop and hey, wait for your instructions.

3 Q. So anything less than it being under water,  
4 you don't --

5 A. Well, that's why I called them to let them  
6 know that hey, you want to do something about this?

7 Q. All right. Have you made these type of calls  
8 in previous --

9 A. No, I haven't needed to. For water? It's  
10 never -- I've never seen it like that.

11 Q. Oh, so as your tenure as a conductor,  
12 you've -- and I'm saying through the years.

13 A. I've seen it -- I've seen it running along the  
14 side --

15 Q. Yeah.

16 A. -- after a big rain but I've never seen it  
17 like this.

18 Q. Oh, so this was the worst day --

19 A. That I've seen.



20 Q. -- of water that you've seen?  
21 A. And like I said earlier that I did see a  
22 washout before, not a total washout but what was going  
23 to be one, and they were already on that. They warned  
24 us before we even got there. I believe it was like at

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1 DuPage lead, somewhere around there. It was probably  
2 back about five months, I'm not exactly sure.

3 Q. Was it difficult getting in touch with a  
4 conductor?

5 A. No. With the -- you mean the dispatcher?

6 Q. With the dispatcher.

7 A. Oh, no. No. I know sometimes like if there's  
8 a turnover, you know, when they're changing shifts, but  
9 no. Because, like I said, it was 2040 and I think they  
10 work eight-hour shifts, 6:00 to 2:00, 2:00 to 10:00.

11 MR. GOBER: Let me ask one question.

12 FURTHER EXAMINATION

13 BY MR. GOBER:

14 Q. You called dispatcher about Milepost 81  
15 telling him --

16 A. No. Well, just as soon as we went over it.  
17 Q. Okay.  
18 A. Because it -- the water was like 80.5.  
19 Q. Okay.  
20 A. So as we're -- as we're looking at it and  
21 going past it, that's when he toned them up.  
22 Q. Okay. I'm just a little bit confused. At  
23 the -- what is the milepost at the point of derailment?  
24 A. That's -- that's Mulford Road.

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1 Q. Yeah.  
2 A. You know what, I have a -- I have a thing in  
3 my bag with the exact milepost and the street. You want  
4 me to get that out? Mulford, doesn't tell me the  
5 milepost. 80.4 so I'd say maybe looks like 80.2 or so,  
6 right around there.  
7 MR. JAMIN: Can we go off for a second?  
8 MR. GOBER: Yeah, off the record just a second.  
9 (Discussion off the record.)  
10 BY MR. GOBER:  
11 Q. Okay. Mr. Fitman, to clarify the record, you  
12 stated that whenever you pass near the 84.5, you saw

13 high water and then again near Milepost 81 you saw high

14 water, it was not over the rail but enough to concern

15 you so you then --

16 A. At 84 on my side of the track it was over the

17 rail for maybe a five-foot space.

18 Q. And actually over the top of the rail?

19 A. Right, right even with it.

20 Q. Okay.

21 A. Nothing on the right side but just for a

22 little space.

23 Q. Okay. And at 81 it was just high?

24 A. Yeah, it was high.

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1 Q. So then you decided you'd better call the

2 dispatcher?

3 A. Well, yeah, let him know there was a lot of

4 water out here.

5 Q. Okay. All right. And then within about a

6 minute after that you'd crossed over Mulford and went

7 into emergency?

8 A. We might have -- we might have already been

9 over Mulford practically by that time. I think, yeah,  
10 we -- yeah, we had to be over Mulford because there was  
11 60 cars passed Mulford when it went in emergency.

12 Q. Well, you called dispatcher and then right  
13 after you called dispatcher --

14 A. Well when we went in emergency and stopped, we  
15 were about 200 yards west of Perryville.

16 Q. Okay.

17 A. And that's 79.1.

18 Q. Stopped at 79.1?

19 A. Well, I'd say 80, 80.1, just between  
20 Perryville and Mulford.

21 MR. GOBER: Okay. Mr. Gibson, do you have any  
22 questions?

23 MR. GIBSON: Yeah, it's just for clarification.  
24 Jerry Gibson with United Transportation Union.

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1 EXAMINATION

2 BY MR. GIBSON:

3 Q. When we were talking about slow orders, I  
4 think we were kind of mixing permanent and temporary.

5           Was there any other temporary slow orders or  
6 any orders out there for you that were temporary, they  
7 weren't permanent?

8       A. No. No, and that he gave us verbal,  
9 everything was on the TGBOs.

10       MR. GIBSON: Okay. All right. That's it. Thank  
11 you.

12       MR. GOBER: Okay. We'll let Mr. Jenner ask the  
13 rest of his questions.

14       MR. GIBSON: Sorry.

15       MR. GOBER: I have made the mistake and we'll get  
16 to you, Mr. Fields, later.

17                   FURTHER EXAMINATION

18 BY MR. JENNER:

19       Q. During your trip do you -- or did you  
20 overhear any conversations between the dispatcher and  
21 the other train crews?

22       A. Uh-uh. The only thing I heard was we didn't  
23 know that the train going west was at Freeport until we  
24 got an approach coming into West Lena and then we

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1 started hearing, okay, that's why we got an approach and  
2 we're stopping.

3 Q. Okay.

4 A. So we stopped at East Lena and then he  
5 finished building his train, about 20 minutes later we  
6 got off, watched them roll by and got back on, got a  
7 clear signal and it was clear all the way.

8 Q. Okay. And just to understand a little better,  
9 you were going 34 through the 50-mile per hour track  
10 speed?

11 A. Once we went over the hill, we were going 18,  
12 19.

13 Q. Eighteen, 19 going up the hill?

14 A. Right.

15 Q. And then 34 going down?

16 A. Right.

17 Q. Were you going to --

18 A. On the other side of Rockford.

19 Q. I'm sorry?

20 A. On the other side of Rockford where it starts  
21 going down.

22 Q. Would you have eventually -- without the

23 derailment, would you have gone up to 50 miles per hour?

24 A. Oh, yeah, we've got to run track speed.

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1 Q. Okay. We talked about post-accident

2 toxicology.

3 A. Uh-hum.

4 Q. Would you please describe that process when

5 you were taken, what facility?

6 A. Well, he was directed to take us to I don't

7 know where the first place was but when we got there,

8 they said they don't do that so then we went to Swedish

9 American. I don't know what the first place was but we

10 went to Swedish American and they did it.

11 Q. Did that include both breathalyzer and --

12 A. No breathalyzer and I asked them about that

13 and they said no, since we're taking your blood if there

14 was anything, it'd be in your blood and the urine and

15 they took our vital signs first and then they had --

16 before they released us, a doctor came in and looked us

17 over, eyes, ears, mouth, anything hurt, you know.

18 Q. But were you -- was anything hurt, were you

19 injured in --

20 A. Well, my blood pressure was 121 over 85, I was

21 fine.

22 Q. Do you happen to know the approximate time

23 that the specimens were given?

24 A. I'm going to say probably -- I know we got to

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1 the first place about 1:15 in the morning, then we

2 probably drove another half hour to get to the next one,

3 then they had us sit and wait because Saturday night is

4 kind of busy in the emergency ward. I don't know what

5 time that was, maybe, by the time I got in there, 3:00.

6 Q. Okay. And the first place just said they

7 don't do these procedures?

8 A. Yeah, I don't know that somebody gave him the

9 wrong information.

10 Q. Okay. And the second place, is it -- this is

11 a hospital or some type of --

12 A. Yeah, Swedish American.

13 Q. And I'm not familiar with that name, so.

14 A. Well, either am I but it was a big place.

15 Q. Okay. Any problems with the procedure of



16 getting blood from you, everything was done okay?

17 A. Yeah, first they did vital signs and then I

18 did the urine and then they took my blood.

19 Q. Okay. As I mentioned before, some questions

20 about your overall health. On the day of the accident

21 you considered yourself in good health?

22 A. Well, I got a little bit here but I've been

23 going to the gym for almost eight years, quit smoking

24 eight years ago June 6th.

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1 MR. GOBER: Have you ever had diabetes?

2 THE WITNESS: No. My father had it towards the end

3 of his life and one of my younger brothers got it but

4 that's the weight, you know, type 2, it wasn't type 1.

5 BY MR. JENNER:

6 Q. When was your last company physical exam?

7 A. Right when I started in August.

8 Q. August of '06?

9 A. You know, I don't know if I had one at the CN.

10 I did have all that at CSX, that would be January of

11 '06. I had the first day that I went on a job at the CN

12 I was drug tested.

13 Q. Just random test?

14 A. Yeah. Well, the engineer I was with I told  
15 him I said well, it must be because it's my first day  
16 and he said nah, it's probably because of me and he's  
17 not -- he works for I think he went back to Metra.  
18 Neither of us tested positive, I don't know why he said  
19 that to me but he did.

20 Q. Okay. As far as you know from the results of  
21 your last physical, were there any exceptions taken to  
22 vision or --

23 A. Well, I give -- I give blood. Every 16 weeks  
24 I've been doing this for like 15 years. I gave whole

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1 blood 75 times and now they have something that's called  
2 Helix where they take double the red blood cells so I  
3 don't have to go but every 16 weeks, I just do that  
4 because I want to do it. And if I had anything wrong  
5 with me, I'm sure -- because they test all that before  
6 they give it to anybody and if I had anything wrong with  
7 me, I'm sure they'd let me know.

8 Q. All right. Part of the physical exam is

9 hearing and --

10 A. Oh, yeah, yeah, yeah, I did -- I'm sorry, I  
11 did have that. Before they hired me I went to a place,  
12 I can't remember where it was at, it was about -- we  
13 reported to the in Home- -- in Markham, where was that  
14 office that Tassin used to be in with Angelique?

15 MR. BROCKMAN: MIT.

16 THE WITNESS: Okay. We reported at MIT. She gave  
17 us some paperwork and sent us down the street 159th just  
18 west of, I don't know what expressway is there, but  
19 there was a medical center in there and, yeah, I did  
20 have a -- I did have a -- it was about six of us that  
21 went there. It was five of us because I hired on with  
22 four other guys, we all went that day. I do remember  
23 that, yeah.

24

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1 BY MR. JENNER:

2 Q. As far as you know the results were normal for  
3 your hearing?

4 A. Oh, yeah. Yeah.

5 Q. Okay. You're not wearing any glasses. Do you

6 wear contacts?

7 A. Yes.

8 Q. Do you -- are you required to wear those when  
9 you're operating the train?

10 A. Yeah, I am but -- and I -- you know, it was  
11 kind of funny. When I hired here, they said you have to  
12 get prescription glasses, I said but I wear contacts.  
13 And the guy is like well, let me look that up. And then  
14 he said oh, I guess that's okay. I said is this the  
15 first time you ran across something like that?

16 But I wear reading glasses. When it gets dark  
17 out I've got to put the reading glasses and I always  
18 have my safety -- my PPO on, I always wear my  
19 protective...

20 Q. Were you wearing your contacts?

21 A. Oh, yeah, I'm wearing them right now.

22 (Whereupon an interruption was had.)

23 BY MR. JENNER:

24

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4 MR. GOBER: Whenever we get ready to put that  
5 information in the docket, we'll expunge those numbers  
6 so nobody from the public will ever be able to get in  
7 touch with you.

8 THE WITNESS: Okay.

9 BY MR. JENNER:

10 Q. Did you have any need to use your cell phone  
11 on the day of the accident?

12 A. My cell phone is always off before I get on a  
13 train and it's off until I get in my car to go home.  
14 That was the rule at CSX, that's when I started doing it  
15 there, and that's how it always is.

16 Q. On the night of the incident --

17 A. It was off.

18 Q. -- radio was working okay --

19 A. Yeah.

20 Q. -- where you didn't have to use --

21 A. No.

22 Q. -- the cell?

23 A. No.

24 Q. We heard from --

1     A. I won't use my cell phone. I won't use my  
2 cell phone because, you know, if something happens, it's  
3 not recorded so I do everything over the radio.

4     Q. Right. Okay. What I'd like to do is get your  
5 work history three days before the accident trip on  
6 Friday.

7     A. Okay.

8     Q. So can you tell me --

9     A. Okay, I mark --

10    Q. -- from Tuesday on?

11    A. I went back on the board the previous Saturday  
12 at I believe it was 2025 at night Saturday. I got  
13 called Sunday and I believe it was 3:30 in the morning  
14 to take a train to Dubuque at 5:30. We took a train to  
15 Dubuque, I tied up at I think it was right about 5:00,  
16 we laid over in a hotel for 26 hours, then they cabbed  
17 us back to Hawthorne. I went and finished the local  
18 work, I tied up probably about I'm guessing about  
19 6:00 in the morning Tuesday and then I didn't get called  
20 again until I took a train west to Dubuque, we sat in  
21 the hotel for I think it was 18 hours and then we took

22 this U 706 back on the 19th.

23 Q. Okay.

24 MR. GOBER: Can you give Steve a little better idea

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1 of how much sleep you got during those times?

2 THE WITNESS: Oh, I was laying in the hotel just

3 waiting to -- we were rested at I think like 11:30 at

4 night or quarter to 12:00 and, like I said, we didn't

5 take the train until 2:00 in the afternoon, so.

6 You know, you don't know when you're going to

7 get called so I take a shower, watch TV for an hour, I

8 go to bed. I wake up either when they call me or when

9 I'm not tired anymore. I got up that morning, I walked

10 down to the I think it's called an Okey Dokey, I got the

11 paper. I got up at 6:00, I went downstairs about -- I

12 figure about 7:00 o'clock I walked down, I got the Trib

13 and Times, I read that, then that big storm blew

14 through. I laid back down about 9:30 and then the phone

15 rang at noon for us to get on that train at 2:00

16 o'clock. So, you know, I had a full night's sleep and

17 then probably another three hours after that.

18 BY MR. JENNER:

19 Q. So there was a gap between when you tied up

20 Tuesday morning? If I understand.

21 A. Yeah, yeah, because I didn't get called.

22 Q. Right. So you were off the rest of Tuesday?

23 A. Right.

24 Q. And Wednesday you were off?

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1 A. Right. I have it all written down at home,

2 the exact --

3 Q. Okay.

4 A. -- you know, time I got off and everything.

5 Q. Okay. Rather than take too much time here,

6 I'm going to talk to you right after the interview about

7 getting a little bit more details about that.

8 A. Okay.

9 Q. Okay. How did you feel at the start of your

10 trip on Friday?

11 A. Fine.

12 Q. You felt rested and in good health and --



13 A. Yeah.

14 Q. -- everything? Okay.

15 A. Stopped at the, what is it? There's an Arby's  
16 right there. At the gas station I got a bottle of pop,  
17 got on the train. It was hot and muggy. Like I said,  
18 it was sunny because that storm just blew through and  
19 then as we went east, it started getting darker and by  
20 Freeport it was pouring.

21 Q. All right. Are you taking any prescription  
22 medications?

23 A. No.

24 Q. Any over-the-counter medications for allergies

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1 or colds or anything?

2 A. No, I take aspirin once in awhile when I get a  
3 headache.

4 Q. Okay.

5 A. Or if my sinuses block up, I'll take Tylenol.  
6 I don't take any -- Vitamins.

7 Q. Okay. I don't think we got your date of  
8 birth?

9 A. 7/19/59.

10 MR. JENNER: I think that's all the questions right

11 now. Thank you.

12 MR. GOBER: Okay. Briefly tell me what you think

13 about the way the engineer handled his train for the

14 five minutes before the accident occurred.

15 THE WITNESS: Nothing out of the ordinary. We were

16 just sailing along.

17 MR. GOBER: Okay. Did he handle the train the way

18 he usually does or have you worked with him?

19 THE WITNESS: Oh, yeah, and he's a good engineer.

20 MR. GOBER: Okay. Okay. Mr. Fields, go ahead.

21 MR. FIELDS: Carl Fields, BLET.

22 EXAMINATION

23 BY MR. FIELDS:

24 Q. Tom, I heard you say you did a class one with

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1 a trainmaster --

2 A. Blair Templeton.

3 Q. Templeton?

4 A. Uh-hum.

5 Q. And that 76 cars that were --

6 A. I cut away on the control siding at Freeport.

7 Q. Okay.

8 A. I told the dispatcher I'm going to do that,

9 cut away, go grab the 38 cars due to class one tie back

10 on.

11 Q. The 76 car ethanol train --

12 A. Uh-hum.

13 Q. -- the air test was performed by who?

14 A. Hackbarth.

15 Q. That's what I thought you said. Who is

16 Hackbarth, do you know?

17 A. He's a conductor.

18 Q. Oh, okay.

19 A. I don't know if he's from Waterloo or --

20 Q. Okay. It was on the air slip?

21 A. Yeah.

22 Q. Okay.

23 A. Yeah. On his wheel. He wrote it on his

24 wheel, I wrote mine on the track list that I got for the

1 nondangerous cars that I picked up.

2 Q. Okay. That explains that.

3 A. And the fire department got copies of that

4 too. They took copies of that.

5 Q. You had mentioned 128 in the hazmat book. Is

6 that in the Emergency Response Guidebook?

7 A. That's on my wheel. It shows you the code

8 number that you can look up in the hazmat book.

9 Q. Which is the Emergency Response Guidebook?

10 A. Right.

11 Q. The orange book?

12 A. Right. Right. 2008 is the copy I have.

13 Q. Were you trained on that?

14 A. Yeah, at CSX I was and then we had a refresher

15 course when I came over to CN. Because we were all --

16 they don't -- they didn't hire anybody except qualified

17 conductors in my class so we more or less knew all that,

18 it's just getting used to the territory and they have a

19 few different rules.

20 Q. So you knew that you had a product on your

21 train --

22 A. Oh, yeah.

23 Q. Okay.

24 A. I look at that ahead of time in case something

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1 does happen.

2 Q. Good. And did you do a -- from your vantage  
3 point in the locomotive, could you see the speedometer  
4 at all times?

5 A. Yeah, there was one right above me.

6 Q. And --

7 A. That's not always the case but I mean  
8 sometimes it's above my head but I had a digital,  
9 lighted, it was right there.

10 Q. And at times when you went by a detector or a  
11 voice --

12 A. Well that tells you what speed you're going.

13 I wrote down --

14 Q. Right.

15 A. -- on my TGBO that I left on the train when we  
16 went by 146.8 we just had the ethanol cars and that,  
17 wrote down my speed; I write it down. But I don't have  
18 it with me now, I left it on the train.

19 Q. Did you take any exception to the difference  
20 between the voice readout compared to what you would see  
21 on the speedometer?

22 A. No, that was correct.

23 MR. FIELDS: Okay. That's all I have. Thanks.

24 MR. GOBER: Okay. We have a few questions by CN

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1 and then we'll be through. You can go ahead and ask  
2 questions and I'll go out.

3 MR. BROCKMAN: Kevin Brockman with CN. Tom, I just  
4 have a couple of questions.

5 EXAMINATION

6 BY MR. BROCKMAN:

7 Q. When the train initially went into emergency,  
8 approximately how far did the engines travel before they  
9 came to a stop in your -- just an estimate?

10 A. Not far, two or three, four. I mean, that's  
11 what it felt like to me.

12 Q. Two or three feet?

13 A. Car lengths. Car lengths. You know, a couple

14 hundred feet.

15 Q. A couple hundred feet? All right. When you  
16 walked back to make an inspection to find out what had  
17 caused the emergency --

18 A. I was looking for anything and everything.

19 Q. And let me finish before you answer, please.  
20 When you walked back to do the inspection, and you said  
21 you saw the orange flames, you also stated that you  
22 could see the rear car in the cut of your cars?

23 A. Not at that time.

24 Q. Okay.

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1 A. When I walked back with the fire department  
2 guy that's when I seen that.

3 Q. Okay. At that time when you noticed the rear  
4 car was derailed in the head portion that you had a hold  
5 of, at any time did you move that car?

6 A. No.

7 Q. So from the time the train went into emergency  
8 till the time that you made the cut ahead of the

9 derailed car, did that derailed car at any time move?

10 A. No.

11 Q. Okay. When you were going through Rockford

12 and when you were going across Mulford Road crossing, at

13 any time did you see any CN personnel, any fire

14 department personnel, any police?

15 A. No.

16 Q. Okay. Who is the first CN employee you saw

17 after the train went into emergency?

18 A. When the fire department guy gave us a ride

19 back to the control center, Roy. He works at Markham,

20 Roy. He used to be -- worked in the car shop.

21 Q. Tallman?

22 A. Tall guy and then --

23 Q. Roy Tallman?

24 A. I don't know his last name.

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1 Q. Okay. All right.

2 A. And then Ron, I don't know his last name.

3 Q. Bufton? Ron Bufton?

4 A. Yeah, that sounds like it.



5 Q. Ron Bufton, do you happen to know what he is,  
6 a track maintainer --

7 A. Something to do with the track.

8 MR. BROCKMAN: Okay. That's all I have.

9 MR. JENNER: Why don't we just go off the record.

10 (Discussion off the record.)

11 MR. GOBER: We're back on the record.

12 Mr. Thomas A. Fitman.

13 THE WITNESS: Yes.

14 MR. GOBER: Thank you for coming and giving us an  
15 interview. The information you've provided us is very,  
16 very helpful to our investigation. Like we've  
17 mentioned, we're so sorry that you were involved in such  
18 a horrible accident but we hope that the information you  
19 provided us will help make the rail industry safer.

20 So you're free to go and if we need to contact  
21 you, we'll get in touch with the management first.

22 Thank you again.

23 (Interview of Thomas A. Fitman

24 concluded.)

1 STATE OF ILLINOIS )  
 ) SS.  
2 COUNTY OF COOK )

3

4 Margaret Maggie Orton, being first duly sworn,  
5 on oath says that she is a Certified Shorthand Reporter  
6 and Notary Public doing business in the City of Chicago,  
7 County of Cook and the State of Illinois;

8 That she reported in shorthand the proceedings  
9 had at the foregoing National Transportation Safety  
10 Board Hearing;

11 And that the foregoing is a true and correct  
12 transcript of her shorthand notes so taken as aforesaid  
13 and contains all the proceedings had at the said  
14 National Transportation Safety Board Hearing.

15

16

17 \_\_\_\_\_  
MARGARET MAGGIE ORTON, CSR

18

19 CSR No. 084-004046

20

SUBSCRIBED AND SWORN TO  
21 before me this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2009.

22

23

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NOTARY PUBLIC

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